

4. At all times relevant herein, Defendant leased and operated a facility, used to treat, store, or dispose of hazardous waste, located at 2702 Douglas Street (hereinafter "Facility") in Omaha, Nebraska.

5. Title 128, Chapter 12, 001.01, provides that a permit is required for the treatment, storage, or disposal of any hazardous waste.

6. On or about December 1, 2001 through March 25, 2002, Defendant failed to obtain a permit for the treatment, storage, or disposal of 76,445 pounds of hazardous waste at the Facility.

7. Neb. Rev. Stat. §81-1508.02(1)(b) makes it unlawful for any person to violate any air, water, or land quality standards, any permit condition or limitation, or any monitoring, reporting, or record-keeping requirements contained in or issued or entered into pursuant to the Environmental Protection Act, the Integrated Solid Waste Management Act, or the rules or regulations adopted and promulgated pursuant to such acts.

8. Neb. Rev. Stat. § 81-1508.02(1)(e) makes it unlawful for any person to violate any provision or fail to perform any duty imposed by the Nebraska Environmental Protection Act or any regulations promulgated thereunder.

9. Neb. Rev. Stat. §81-1508.02(2) provides that each violation of Neb. Rev. Stat. §81-1508.02 shall subject a person to a civil penalty of no more than ten thousand dollars (\$10,000) per day, and in case of a continuing violation, each day shall constitute a separate offense.

10. Plaintiff's allegations in paragraphs 1 through 9 of the Complaint constitute eighty-four (84) violations for purposes of Neb. Rev. Stat. §81-1508.02(2).

SECOND CLAIM

11. Plaintiff hereby incorporates by reference each and every allegation contained in paragraphs 1 through 10 of this Complaint as if fully set forth herein.

12. Title 128, Chapter 4, 003.02, provides that if there is any change in the information or status of any owner or operator of a facility for treatment, storage, or disposal of hazardous waste, such owner or operator "shall file an amended notification with the Department . . ." within thirty (30) days of such change.

13. On or about December 1, 2001, Defendant became the "operator," as defined in Title 128, Chapter 1, 089, of the Facility.

14. This change in information or status of the operator of the Facility required Defendant to file an amended notification with the Department by December 31, 2001.

15. On or about January 1, 2002 through March 7, 2002, Defendant failed to file the amended notification in violation of Title 128, Chapter 4, 003.02.

16. Neb. Rev. Stat. §81-1508.02(1)(b) makes it unlawful for any person to violate any air, water, or land quality standards, any permit condition or limitation, or any monitoring, reporting, or record-keeping requirements contained in or issued or entered into pursuant to the Environmental Protection Act, the

Integrated Solid Waste Management Act, or the rules or regulations adopted and promulgated pursuant to such acts.

17. Neb. Rev. Stat. § 81-1508.02(1)(e) makes it unlawful for any person to violate any provision or fail to perform any duty imposed by the Nebraska Environmental Protection Act or any regulations promulgated thereunder.

18. Neb. Rev. Stat. §81-1508.02(2) provides that each violation of Neb. Rev. Stat. §81-1508.02 shall subject a person to a civil penalty of no more than ten thousand dollars (\$10,000) per day, and in case of a continuing violation, each day shall constitute a separate offense.

19. Plaintiff's allegations in paragraphs 11 through 18 of the Complaint constitute ninety-six (96) violations for purposes of Neb. Rev. Stat. §81-1508.02(2).

THIRD CLAIM

20. Plaintiff hereby incorporates by reference each and every allegation contained in paragraphs 1 through 19 of this Complaint as if fully set forth herein.

21. Pursuant to Title 128, Chapter 21, owners and operators of all facilities that treat, store, or dispose of hazardous wastes must satisfy the conditions and requirements of 40 CFR Part 264, Subparts F, G, and H, pertaining to solid waste management units or regulated units, closure and post-closure, and financial requirements.

22. Continuing since December 1, 2001, Defendant has failed to meet the conditions and requirements of 40 CFR Part 264, Subparts F, G, and H at the

Douglas Street Facility and is therefore violating Title 128 – *Nebraska Hazardous Waste Regulations*.

23. Neb. Rev. Stat. §81-1508.02(1)(b) makes it unlawful for any person to violate any air, water, or land quality standards, any permit condition or limitation, or any monitoring, reporting, or record-keeping requirements contained in or issued or entered into pursuant to the Environmental Protection Act, the Integrated Solid Waste Management Act, or the rules or regulations adopted and promulgated pursuant to such acts.

24. Neb. Rev. Stat. § 81-1508.02(1)(e) makes it unlawful for any person to violate any provision or fail to perform any duty imposed by the Nebraska Environmental Protection Act or any regulations promulgated thereunder.

25. Neb. Rev. Stat. §81-1508.02(2) provides that each violation of Neb. Rev. Stat. §81-1508.02 shall subject a person to a civil penalty of no more than ten thousand dollars (\$10,000) per day, and in case of a continuing violation, each day shall constitute a separate offense.

26. Pursuant to Neb. Rev. Stat. § 81-1508(2), the Plaintiff may petition the district court for an injunction whenever any person, firm, or corporation is violating or threatening to violate any rule or regulation adopted and promulgated under the Nebraska Environmental Protection Act.

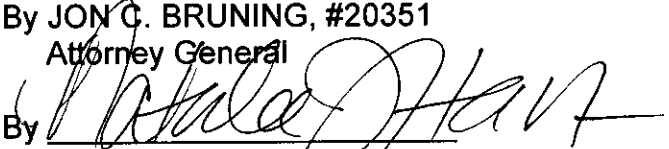
27. Plaintiff's allegations in paragraphs 20 through 26 of the Complaint constitute one thousand four hundred fifty-eight (1,458) violations for purposes of Neb. Rev. Stat. §81-1508.02(2).

WHEREFORE, the Plaintiff prays that judgment be entered in favor of the Plaintiff and against the Defendant in the form of a civil penalty as provided in Neb. Rev. Stat. § 81-1508.02, with consideration by the Court of "the degree and extent of the violation, the size of the operation, and any economic benefit derived from noncompliance" in determining the appropriate civil penalty pursuant to Neb. Rev. Stat. § 81-1508.02 (2); an injunction as provided in Neb. Rev. Stat. § 81-1508(2); that all costs of this action be taxed to the Defendant; and any other relief as this court deems just and equitable.

STATE OF NEBRASKA, ex rel
MICHAEL J. LINDER, Director
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY, Plaintiff

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